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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/626,563

07/25/2003

Daniel J. Kessler

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06/15/2006

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

EXAMINER

LOCKETT, KIMBERLY R

ART UNIT

PAPER NUMBER

2837

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

H-1

Office Action Summary	Application No. 10/626,563	Applicant(s) KESSLER, DANIEL J.	
	Examiner Kim R. Lockett	Art Unit 2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7, 8, 10-13, 15, 16 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 8, 10-13, 15, 16 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-5, 7, 8, 10-13, 15, 16, and 18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is not clear how the cover comprises a front portion that extends over substantially an entire front surface of a stringed instrument body and **is between the stringed instrument body and a string of the stringed instrument body; and means for attaching the front portion of the front surface of the stringed instrument body without requiring removal of hardware if the stringed instrument body. It is not clear how the cover is placed between the string and the body without removing the body hardware.**

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,7, 10, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Spindler.

Spindler discloses the use of a protective instrument cover comprising a front portion that extends over substantially an entire front surface of a stringed instrument body and is between the stringed instrument body and a string of the stringed instrument body; and means for attaching the front portion of the front surface of the stringed instrument body without requiring removal of hardware if the stringed instrument body (see figure 1).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spindler in view of Hearfield.

Spindler does not disclose the specific use of a stretchable material.

Hearfield discloses the use of a cover for a musical instrument using a stretchable material (11) (column 2, lines 59-64).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the stretchable cover as disclosed by Spindler to include

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the use of a leather material as disclosed by Hearfield in order to provide a protective cover for a musical instrument with stretching capabilities yet provides a tight fit.

5. Claims 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spindler in view of Hearfield and Britto et al.

Spindler and Hearfield do not disclose the specific use of a spandex material.

Britto discloses the use of a cover for a musical instrument using a spandex material (column 4, lines 24,25).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the stretchable cover as disclosed by Spindler to include the stretchable material as disclosed by Hearfield and the spandex as disclosed by Britto in order to provide a protective cover with flexibility.

6. Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spindler in view of Hearfield and Wise, Jr.

Spindler and Hearfield do not disclose the use of a neoprene material.

Wise discloses the use of a neoprene material for a musical instrument (column 4, lines 7-8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the cover as disclosed by Spindler with the stretchable material as disclosed by Hearfield and the neoprene as disclosed by Wise in order to provide cover for a musical instrument that resists sliding.

7. Claims 5 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spindler in view of Hearfield and Toth.

Spindler and Hearfield do not disclose the specific use of a latex material.

Toth discloses the use of a cover for a musical instrument using latex material (column 2, lines 20-,22).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the cover as disclosed by Spindler to include the stretchable material as disclosed by Hearfield and the latex as disclosed by Toth in order to provide a protective cover for a musical instrument elastic characteristics.

8. Claims 8 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spindler in view of Hearfield and Messina.

Spindler and Hearfield do not disclose the specific use of a zipper.

Messina discloses the use of a cover for a musical instrument with attachment means that includes a zipper (22).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the cover as disclosed by Spindler to include the stretchable material as disclosed by Hearfield and the zipper as disclosed by Messina in order to provide a protective cover with an alternate fastening means.

Response to Arguments

9. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

However, applicant's arguments with respect to the leather as disclosed by Hearfield have been fully considered but they are not persuasive. Even though Hearfield recites leather as being an "ideal material" as the applicant argues, Hearfield does not specifically disclose that his cover can only be made from leather. Furthermore leather is a conventional material that has inherent qualities of stretch ability and is well known to stretch when used as a material for various items, example shoes and clothing apparel. The examiner maintains that leather is a stretchable material and thus reads on the applicant's claims.

10. Papers related to this application may be submitted to Group 2800 by facsimile transmission. Papers should be faxed to Group 2800 via the PTO 2800 Fax Center at 703-872-9306.

For assistance in **Patent procedure, fees or general Patent questions** calls should be directed to the **Patents Assistance Center (PAC)** whose telephone number is **800-786-9199**. Assistance is also available on the Internet at www.uspto.gov.

Any inquiry concerning **this communication or earlier communications from the examiner** should be directed to **Kim Lockett** whose telephone number is **(571)**

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272-2067. The examiner can normally be reached on Tuesday through Friday from 6:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on (571) 272-1988.



**KIMBERLY LOCKETT
PRIMARY EXAMINER**